



December 1, 1999

Mr. Nick Todaro
Assistant City Attorney
City of Midland
300 North Loraine, Room 320
P.O. Box 1152
Midland, Texas 79702-1152

OR99-3453

Dear Mr. Todaro:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129786.

The City of Midland (the “city”) received a request for a specific offense report. You claim that the requested offense report is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Section 552.108, the “law enforcement exception,” provides in relevant part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Although you do not adequately explain how section

552.108(a)(2) applies to the submitted information, it appears from the face of the documents that the complainant does not wish to prosecute this case. Therefore, we conclude that most of the information you have marked in Exhibit B may be withheld under section 552.108(a)(2).

We note, however, that “basic information about an arrested person, an arrest, or a crime” is not excepted from required public disclosure. Gov’t Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). You state that in accordance with *Houston Chronicle* you have released Exhibit D to the requestor. However, Exhibit D does not contain the identification and description of the complainant nor does it contain a detailed description of the offense. You explain that you have withheld the identity of the complainant because you believe that person is an informer. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); Open Records Decision Nos. 582 (1990), 515 (1988). The informer’s privilege does not, however, categorically protect from release the identification and description of a complainant. The identity of a complainant, whether an “informant” or not, may only be withheld upon a showing that special circumstances exist.

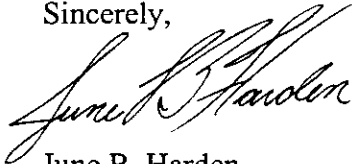
We have addressed several special situations in which front page offense report information may be withheld from disclosure. For example, in Open Records Decision No. 366 (1983), this office agreed that the statutory predecessor to section 552.108 protected from disclosure information about an ongoing undercover narcotics operation, even though some of the information at issue was front page information contained in an arrest report. The police department explained how release of certain details would interfere with the undercover operation, which was ongoing and was expected to culminate in more arrests. Open Records Decision No. 366 (1983); *see* Open Records Decision No. 333 at 2 (1982); *cf.* Open Records Decision Nos. 393 (1983) (identifying information concerning victims of sexual assault), 339 (1982), 169 at 6-7 (1977), 123 (1976).

Based upon the information provided to this office, we do not believe that you have shown special circumstances sufficient to overcome the presumption of public access to the complainant’s identity. Consequently, the city must release all front page offense report information to the requestor. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information, including detailed description of offense). The remaining information, however, may be withheld under section 552.108(a)(2).

Because we are able to make a determination under section 552.108, we need not address your other claimed exceptions. We are resolving this matter with an informal letter ruling

rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" being more prominent.

June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 129786

Encl. Submitted documents

cc: Mr. Butch Brazell
Senior Security Representative
Pioneer Natural Resources
5205 North O'Connor Boulevard, Suite 1400
Irving, Texas 75039-3746
(w/o enclosures)